

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

## **I. DISPUTE**

1. a. Whether there should be additional reimbursement of \$12,450.00 for dates of service 07/16/01 through 09/14/01.
- b. The request was received on 06/27/02.

## **II. EXHIBITS**

1. Requestor, Exhibit I:
  - a. TWCC 60 and Letter Requesting Dispute Resolution
  - b. HCFA(s)
  - c. TWCC 62 forms
  - d. EOBs from other insurance carriers
  - e. Medical Records
  - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
  - a. TWCC 60 and Response to a Request for Dispute Resolution
  - b. HCFA(s)
  - c. TWCC 62 forms
  - d. EOBs showing payment to other Health Care Providers
  - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 07/24/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 07/25/02. The response from the insurance carrier was received in the Division on 08/05/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Additional Information submitted by Requestor is reflected as Exhibit III of the Commission's case file.

### III. PARTIES' POSITIONS

1. Requestor: Table of Disputed Services

(Carrier) has failed to provide any documentation as to how their concept of 'fair and reasonable' was derived. This is an attempt by (Carrier) to supercede the Commission's authority and rules. Specifically, Rule 133.1 (a)(8)- 'fair and reasonable'."

2. Respondent: Letter dated 06/24/02

"The Texas Medical Fee Guidelines list procedure code 97799 as requiring documentation of procedure and provides for reimbursement at a 'fair and reasonable rate.' (Carrier) reimburses these services at a fair and reasonable of **\$125 per hour** for an accredited provider and \$100.00 for a non-CARF accredited facility. According to the fee guidelines, documentation is required for services billed with procedure codes designated as DOP."

### IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are 07/16/01 through 09/14/01.
2. The explanation of denials listed on the EOBs are, "**Z436-F**-CHRONIC PAIN MANAGEMENT, **X598-O**-CLAIM HAS BEEN REEVALUATED BASED ON ADDITIONAL DOCUMENTATION SUBMITTED; NO ADDITIONAL PAYMENT DUE, **Z560-F**-THE CHARGE FOR THIS PROCEDURE EXCEEDS THE FEE SCHEDULE OR USUAL AND CUSTOMARY VALUES AS ESTABLISHED (AUDIT COMPANY), **M**-REDUCED TO FAIR AND REASONABLE, **D**-DUPLICATE CHARGE."
3. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Codes	MARS	REFERENCE	RATIONALE:
07/16/01	97799-CP (5 units)	\$925.00	\$500.00	F,M	DOP	TWCC Act & Rules Sec 413.011 (d); 134.600 (h) (15); 133.304 (i); 133.307 (3) (g) (D); and 133.307 (j) (1) (F)	<p>CPT code 97799-CP is a DOP (no MAR) per the MFG. The MFG reimbursement requirements for DOP states, “An MAR is listed for each code excluding documentation of procedure (DOP) codes... HCPs shall bill their usual and customary charges. The insurance carrier will reimburse the lesser of the billed charge, or the MAR. CPT codes for which no reimbursement is listed (DOP) <b>shall be reimbursed at the fair and reasonable rate</b>” (bolded for emphasis). Per Rule 133.304 (i), “When the insurance carrier pays a health care provider for treatment(s) and/or service(s) for which the Commission has not established a maximum allowable reimbursement, the insurance carrier shall:</p> <ol style="list-style-type: none"> <li>develop and consistently apply a methodology to determine fair and reasonable reimbursement amounts to ensure that similar procedures provided in similar circumstances receive similar reimbursement;</li> <li>explain and document the method it used to calculate the rate of pay, and apply this method consistently;</li> <li>reference its method in the claim file; and</li> <li>explain and document in the claim file any deviation for an individual medical bill from its usual method in determining the rate of reimbursement.”</li> </ol> <p>The response from the carrier shall include, per Rule 133.307 (j) (1) (F), “... if the dispute involves health care for which the Commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the amount the respondent paid is a fair and reasonable rate of reimbursement in accordance with Texas Labor Code 413.011 and §133.1 and 134.1 of this title;”</p> <p>The carrier submitted EOBs to other providers to support their payment, along with an explanation of how they arrived at the \$100.00 to \$125.00 per hour.</p> <p>The Medical Review Division has to determine, based on the parties’ submission of information, which has provided the more persuasive evidence of fair and reasonable. As the Requestor, the health care provider has the burden to provide documentation that “...discusses, demonstrates, and justifies that the payment being sought is fair and reasonable rate of reimbursement...” pursuant to TWCC Rule 133.307 (3) (g) (D).</p> <p>The Medical Review Division has to determine, based on the parties’ submission of information, which has provided the more persuasive evidence of fair and reasonable. As the Requestor, the health care provider has the burden to provide documentation that “...discusses, demonstrates, and justifies that the payment being sought is fair and reasonable rate of reimbursement...” pursuant to TWCC Rule 133.307 (3) (g) (D). As the Requestor, the provider did submit EOBs also. However, the provider did not discuss how these EOBs establish that their rate is fair and reasonable. Therefore, <b>no</b> additional reimbursement is recommended.</p> <p>The Requestor <b>is not</b> entitled to reimbursement.</p>
07/18/01	97799-CP (6 units)	\$1,110.00	\$600.00	F,M			
07/19/01	97799-CP (5 units)	\$925.00	\$500.00	M			
07/20/01	97799-CP (5 units)	\$925.00	\$500.00	M			
07/23/01	97799-CP (6 units)	\$1,110.00	\$600.00	M			
07/25/01	97799-CP (5 units)	\$925.00	\$500.00	F,M			
07/30/01	97799-CP (6 units)	\$1,110.00	\$600.00	F,M			
07/31/01	97799-CP (5 units)	\$925.00	\$500.00	F,M			
08/01/01	97799-CP (6 units)	\$1,110.00	\$600.00	F,M			
08/03/01	97799-CP (6 units)	\$1,110.00	\$600.00	F,M			
08/06/01	97799-CP (6 units)	\$1,110.00	\$600.00	F,M			
08/07/01	97799-CP (4 units)	\$740.00	\$400.00	F,M			
08/08/01	97799-CP (4 units)	\$740.00	\$400.00	F,M			
08/09/01	97799-CP (6 units)	\$1,110.00	\$600.00	F,M			
08/10/01	97799-CP (6 units)	\$1,110.00	\$600.00	F			
08/15/01	97799-CP (6 units)	\$1,110.00	\$500.00	D,M,F, U			
08/16/01	97799-CP (4 units)	\$740.00	\$400.00	F,M			
08/20/01	97799-CP (5 units)	\$925.00	\$500.00	F,M			
08/24/01	97799-CP (5 units)	\$925.00	\$500.00	F,M			
08/29/01	97799-CP (4 units)	\$713.00	\$458.00	D,M			
09/04/01	97799-CP (5 units)	\$925.00	\$500.00	F,M			
09/05/01	97799-CP (5 units)	\$925.00	\$500.00	F,M			
09/10/01	97799-CP (3 units)	\$555.00	\$300.00	F,M			
09/12/01	97799-CP (3 units)	\$555.00	\$0.00	D,O,M			
09/13/01	97799-CP (3 units)	\$555.00	\$300.00	M			
09/14/01	97799-CP (1 units)	\$185.00	\$0.00	M,D			
<b>Totals</b>		\$23,008.00	\$10,528.00				The Requestor <b>is not</b> entitled to reimbursement.

MDR: M4-02-4134-01

The above Findings and Decision are hereby issued this 19<sup>th</sup> day of March 2003.

Michael Bucklin  
Medical Dispute Resolution Officer  
Medical Review Division

MB/mb